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MAR 18 2014

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

*[Signature]*

SEALED  
BY COURT ORDER

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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN FRANCISCO DIVISION

11 In the Matter of the Tax Indebtedness of:

12 ROBERT ROWEN AND TERESA SU,

*Business address:*

13 2200 County Center Drive  
Santa Rosa, CA 95403

*Home Address:*

14 7048 E. Hurlbut Ave.  
Sebastopol, CA 95472

16 Ex Parte UNITED STATES OF AMERICA  
and Revenue Officer DAVID BARBEARO,

18 Applicants for Order.

CV 14 80 686MISC  
Case No. 14-80-686MISC

DECLARATION OF REVENUE  
OFFICER DAVID BARBEARO IN  
SUPPORT OF AMENDED  
APPLICATION FOR ORDER  
AUTHORIZING ENTRY ONTO  
PREMISES TO EFFECT LEVY

FILED UNDER SEAL

*[Handwritten signature]*

19 Revenue Officer DAVID BARBEARO, under 28 U.S.C. § 1746, declares:

20 1. I am a duly commissioned Revenue Officer employed by the Internal Revenue

21 Service with a post of duty in Sacramento, California.

22 2. The name David Barbearo is not my real name. I use David Barbearo as a

23 pseudonym for personal safety reasons in my official capacity as an employee of the Internal

24 Revenue Service. My pseudonym has been registered with the Internal Revenue Service in

DECLARATION OF REVENUE OFFICER  
DAVID BARBEARO IN SUPPORT OF AMENDED  
APPLICATION FOR ORDER AUTHORIZING  
ENTRY ONTO PREMISES TO EFFECT LEVY  
CIVIL NO.

1 accordance with the procedures in Internal Revenue Manual 10.5.7, "Use of Pseudonyms by IRS  
2 Employees," consistent with section 3706 of the IRS Restructuring and Reform Act of 1998,  
3 Pub. L. 105-206, title III, Sec. 3706, July 22, 1998, 112 Stat. 778 (published in the Internal  
4 Revenue Code in the Amendments to 26 U.S.C. § 7803). Pursuant to Internal Revenue Manual  
5 10.5.7.9, I am authorized to sign sworn court statements using my pseudonym.

6       3. I am a Revenue Officer in the Abusive Tax Avoidance Techniques (“ATAT”)  
7 collection group. I have been a Revenue Officer since 2005. Before I became a Revenue  
8 Officer, I was a practicing Attorney in Oregon. I graduated from the Cooley Law School in  
9 Lansing, Michigan, and I am authorized to practice in the State of Michigan.

10       4. My post of duty is at 4330 Watt Avenue, Sacramento, California 95821. As a  
11 Revenue Officer, I have the duty and authority to collect Federal taxes by seizure and sale under  
12 the provisions of 26 U.S.C. § 6331.

## **Tax Liabilities**

14 5. Assessments of tax, penalty and interest have been made against Robert Rowen  
15 (hereinafter referred to as "Rowen") and Teresa Su (hereinafter referred to as "Su"), (collectively  
16 Rowen and Su will be referred to as "Taxpayers") as set forth below:

Robert Rowen<sup>6</sup>

Kind of Tax	Tax Period	Unpaid Balance of Assessments	Statutory Additions	Total
Form 1040	1992	\$ 60,337.56	\$ 95,535.23	\$155,872.79
Form 1040	1993	\$140,425.00	\$265,034.57	\$405,459.57
Form 1040	1994	\$311,857.40	\$0.0	\$311,857.40
Form 1040	1995	\$157,091.12	\$251,272.70	\$408,363.82
Form 1040	1996	\$121,210.90	\$169,527.75	\$290,738.65
Form 1040	1997	\$ 45,074.23	\$ 54,356.86	\$ 99,431.09
Civ. Penalty	2002	\$ 5,026.00	\$ 108.03	\$ 5,134.03

<sup>6</sup> Both Rowen and Su owe more tax liabilities than reflected in this Declaration.

*Teresa Su*

Kind of Tax	Tax Period	Unpaid Balance of Assessments	Statutory Additions	Total
Form 1040	2002	\$268,042.25	\$2,790.20	\$270,832.45

6. With respect to Rowen, the IRS assessed the tax, penalties and interest for the 1992, 1993, 1994, 1995, 1996, and 1997 income tax liabilities on June 22, 1998, June 29, 1998, June 22, 1998, June 29, 1998, May 18, 1998, and July 6, 1998, respectively. Notice and demand for payment pursuant to 26 U.S.C. § 6303 were issued to Rowen on the same day as the assessments were made. The issuance of these notices is reflected in Internal Revenue Service's Account Transcripts for Rowen for each of the years at issue. With respect to the civil penalty (26 U.S.C. § 6702) against Rowen for the 2002 year, the assessment of that liability occurred on July 1, 2013 and notice and demand for payment pursuant to 26 U.S.C. § 6303 was issued on the same day. The issuance of this notice is reflected in Internal Revenue Service's Account Transcripts for Rowen for this penalty.

7. With respect to Su, the IRS assessed the liabilities for the 2002 income tax liability on April 11, 2005. Notice and demand for payment pursuant to 26 U.S.C. § 6303 was issued to Su on the same day as the assessment was made. The issuance of this notice is reflected in Internal Revenue Service's Account Transcripts for Su for 2002.

8. Rowen's income tax liabilities for the years 1992 through 1997 were declared excepted from discharge under the provisions of 11 U.S.C. § 523(a)(1)(C) in a published opinion, *In re Rowen*, 298 B.R. 641 (Bankr. D. Alaska 2003).

9. Rowen's income tax liabilities for the years 1992 through 1997 were reduced to Judgment in a District Court case filed initially in Alaska and then transferred to San Francisco, California when Rowen relocated to Northern California. Judgment was entered in favor of the

1 United States on May 11, 2005. The case was titled *United States v. Robert J. Rowen*, Case No.  
 2 3:03-cv-03614-JSW. This judgment was appealed by Rowen, and the Ninth Circuit summarily  
 3 affirmed the District Court's Judgment (Case No. 05-16532). Certiorari was denied by the  
 4 Supreme Court on December 11, 2006 (Case No. 06-555).

5       10. The Internal Revenue Service's assessments will continue to accrue penalties and  
 6 interest on unpaid balances until the Taxpayers pay the outstanding taxes, penalties and interest.

7       11. A notice of intention to levy (with Collection Due Process rights), required by 26  
 8 U.S.C. §§ 6330 & 6331(d), with respect to Rowen's outstanding income taxes and statutory  
 9 additions for tax years 1992 through 1997, was provided to Rowen by sending it by certified or  
 10 registered mail to his last known address on June 18, 2001. The issuance of these notices is  
 11 reflected in Internal Revenue Service's Account Transcripts for Rowen for each of the years at  
 12 issue. A notice of intention to levy (with Collection Due Process rights), required by 26 U.S.C.  
 13 §§ 6330 & 6331(d), with respect to Rowen's outstanding Civil Penalty for tax year 2002, was  
 14 provided to Rowen by sending it by certified or registered mail to his last known address on July  
 15 22, 2013. I personally sent this notice to Rowen, along with copies to Rowen's two legal  
 16 representatives, and received confirmation from Rowen's legal representatives that they had been  
 17 received.

18       12. A notice of intention to levy (with Collection Due Process rights), required by 26  
 19 U.S.C. §§ 6330 & 6331(d), with respect to Su's income tax liabilities for tax year 2002 was  
 20 provided to Su by sending it by certified or registered mail to her last known address on March 30,  
 21 2006. The issuance of this notice is reflected in Internal Revenue Service's Account Transcripts  
 22 for Su for the 2002. Rowen and Su have neglected or refused to pay the full amount of the tax  
 23 assessed within ten days after such notice and demand, and this neglect or refusal continues.

13. Because of the assessments, a lien has arisen on all property and rights to property of the Taxpayers as provided by 26 U.S.C. §§ 6321 and 6322.

14. Because of the Taxpayers' failure to pay such tax within ten days after notice and demand, and at least thirty days' notice of our intent to levy having been given to the Taxpayers, a levy may be made on all property and rights to property of the Taxpayers and to which the federal tax lien attaches.

7        15. Notices of Federal Tax Liens have been recorded as follows: A Notice of Federal  
8        Tax Lien was recorded on February 6, 2008 with the County Recorder for Sonoma County for the  
9        income tax liabilities of Rowen for the years 1992 through 1997 and 2002 (Serial Number  
10      418074608). This lien was erroneously released on September 24, 2010. However, a Revocation  
11      of Certificate of Release of Federal Tax Lien was recorded on February 13, 2014 (Serial Number  
12      929508913). A new lien was recorded on the same day (Serial Number 983865814).

## **The Properties to be Searched**

14        16. I seek this Writ to search two locations where I believe that the Taxpayers have  
15 substantial cash, gold and silver coins and other cash equivalents. The basis for this belief is  
16 detailed later in this Declaration.

17       17. The first location is the office building located at 2200 County Center Drive,  
18 Santa Rosa, California 95403 (hereinafter referred to as the “Office Building”). The Taxpayers  
19 currently jointly operate an herbal supplement, massage and faith healing medical practice at the  
20 Office Building. I spoke to the owner of the Office Building who confirmed that the Taxpayers  
21 have a month-to-month lease on suites, B, C, and D, and that they have leased these suites since  
22 October 2012. There is no signage at the Office Building indicating that the Taxpayers operate a  
23 business at this location.

18. The second location is the Taxpayers' residence located at 7048 E. Hurlbut Avenue, Sebastopol, California 95472 (hereinafter referred to as the "Residence").<sup>7</sup> The Taxpayers have resided in the Residence since their marriage in 2000, and the underlying mortgage was fully paid in 2005 with comingled funds their joint medical practice. The Residence is a single story, ranch style home of older vintage. It is located on a quiet rural street. Behind a locked gate at the Residence, I observed what appeared to be a Volkswagen van parked, with its license plate was obscured from view. The property also had a shop and a second outbuilding. I seek a Writ to enter and search all buildings located at 7048 E. Hurlbut Avenue, as well as any vehicles parked at that address.

19. Within both the Office Building and the Residence, I seek a Writ to search all locations where gold and silver coins, cash or cash equivalents could be located.

## **Taxpayers' Sources of Assets**

20. Rowen is 64 years old and Su is 61 years old. They were married in 2000 and have no dependent children.

21. Taxpayers are self-employed medical doctors. They currently jointly operate an herbal supplement, massage and faith healing medical practice on a cash only basis at the Office Building. Rowen has three employees but has never filed a Form 941 tax return. The employees are paid in gold and silver coins. The office's outgoing voicemail message says that the office is

<sup>7</sup> Su acquired the Residence on March 8, 1999, by way of a Grant Deed transferring ownership of the Residence to "Terri B. Su, an unmarried woman." Su subsequently quitclaimed her interest in the Residence to an LLC she created in Nevada called "Lights' Inspiration," and also to a Nevada Corporate Sole called "The Inner Light Society for the Office of Overseer, a Woman and Her Successors." On October 2011, the purported owner for property tax purposes of the Residence became the Gallo Roe Trust, though the Sonoma County Recorder's Office has no record of said real property being legally transferred, and the Internal Revenue Service also has no record of a Gallo Roe Trust. Regardless of this purported change, I observed security tapes showing Rowen paying the property taxes on the Residence at the Sonoma County Recorder's office in January, 2012, and again in October, 2012. These payments were made in two \$4,100 cash deposits. On May 13, 2013, I recorded nominee/transferee liens in the names of Roe Gallo, Gallo Roe Trust and Inner Light Society for the Officer of Overseer, a Woman and Her successors, a Corporate Sole, as the nominees and/or transferees of Su.

1 open for appointments only, and that checks and credit cards are not accepted. Payment is by  
2 cash only. Su has one employee who is paid a salary through a payroll service in Florida. This  
3 employee is paid \$60,000 per year. When I interviewed this employee she stated that she does  
4 not work for Su and is just a volunteer.

5       22. From 2002 to 2006, Rowen operated a medical practice under the names Santa  
6 Rosa RJR, Emerald Management LLC, and Redwood LLC. The main source of income for said  
7 businesses was a contract with Soundview Communications, Inc., (hereinafter "Soundview")  
8 under which the businesses provided the services of a medical doctor to research and write  
9 medical articles suitable for publishing in Soundview's newsletter, "Second Opinion."

10       23. On March 1, 2007, Rowen and an entity called Lotus Management LLC  
11 (hereinafter "Lotus") entered into contracts with Soundview which in essence superseded a  
12 previous contract with Redwood LLC. Pursuant to these contracts, all compensation for services  
13 rendered by Rowen is to be paid through Lotus. Lotus, an LLC, was created in Nevada on  
14 November 27, 2006. The Internal Revenue Service's computer records list the Residence as  
15 Lotus's location address. On May 10, 2013, Lotus and Rowen entered into an extension of the  
16 contract with Soundview discussed above, renewing the terms thereof for an additional five  
17 years. The compensation to be paid Lotus pursuant to the new contract is the sum of \$21,127.33  
18 bi-weekly or \$549,310.58 per year.

19       24. As a result of my investigation, I requested approval to issue levies to Soundview  
20 to collect the bi-weekly payments to Lotus, as the nominee or alter ego of Rowen. Approval was  
21 secured on June 19, 2013, and a notice of levy was issued to Soundview. In response,  
22 Soundview instituted a civil suit in the Superior Court of Gwinnett Country, Georgia, seeking,  
23 inter alia, to interplead into the court's registry funds it holds that are payable to Lotus and which

1 the United States claims it is entitled to pursuant to the notice of levy. That action was  
 2 subsequently removed by the United States to the United States District Court for the Northern  
 3 District of Georgia, and by Lotus to the United States District Court for the Northern District of  
 4 California. These actions were eventually consolidated in the Northern District of Georgia under  
 5 Case No. 1:13-cv-02827-CAP, and is still pending. There is currently a levy in place with the  
 6 proceeds being deposited with the United States District Court for the Northern District of  
 7 Georgia.

8       25. In 2006, Rowen asked Soundview to pay him in gold coins. In an email to  
 9 Soundview, Rowen stated the following:

10      I desire to enter into a common law contract with you for payment in substance.  
 11 My proposal:  
 12 You can currently buy double eagles at about 620 FRNs apiece. Let's say that if I was to  
 13 receive the illusion of "money" from Satan's treasury. I would receive a promise to be  
 14 paid (a check) of about \$26,000 FRNs per month. As we know FRNs are not payment.  
 15 So I have made arrangements with an honorable gold coin dealer to handle the  
 16 transaction. I ask you to honor my spiritual needs that I be paid in the substance of God's  
 17 treasure, since I know that it Lawful to be done. The exchange costs FRN to gold may go  
 18 up or down, I don't care. I don't care if I come out on the short end of the stick if I am  
 19 forced to reconvert to "pay" bills to those who cannot or will not accept otherwise in this  
 20 corrupt system. To show you that I am a man who trusts in your honor, we can contract  
 21 to pay me only 37 double eagles per month. Better yet, split that with my wife, as she is  
 22 providing me assistance. At 615 currently per coin that amount of Lawful tender will on  
 23 cost you \$22,755 in Fed Notes.

24       26. The above email goes on for three pages with similar sentiments. I believe that  
 25 "FRN" refers to Federal Reserve Notes. Soundview declined Rowen's request.

26       27. On or about July 19, 2009, Rowen and his associate Ronald MacDonald  
 27 established the website [www.newpeopleorder.com](http://www.newpeopleorder.com) and authored a book entitled "They Own It  
 28 All (Including You)!: By Means of Toxic Currency." The book offers tax avoidance techniques  
 29 including the purchase of gold and silver as a means of avoiding income taxation. The book is  
 30 currently listed for sale on Amazon.com.

1       28. On April 15, 2013, Lotus filed its Form 1120 Corporate Tax Return for tax year  
2 2012, signed by Ronald MacDonald. The return lists gross receipts in the sum of \$487,869. It  
3 does not list any deductions for salaries or wages, but does list a miscellaneous deduction in the  
4 sum of \$480,849 for "US\$ FR LWFL MNY, GLD CN," thus reducing the net income of Lotus to  
5 zero. The abbreviation referenced above probably means "US federal reserve notes exchanged  
6 for lawful money gold coin." A review of the tax return Rowen filed for Redwood LLC in 2006  
7 reveals a similar deduction, reducing its net income to zero.

8       29. During my investigation I became aware that Rowen, Su, and Lotus had  
9 purchased significant quantities of gold coins.

10      30. I issued an Internal Revenue Summons to Soundview, and from my review of the  
11 summonsed records I noticed that numerous payments by Soundview to Lotus were routed thru  
12 an account at Wells Fargo Bank (owned by Lotus) and/or deposited directly into an account at  
13 Bank of America.

14      31. The account at Bank of America is owned by R.M. Trading, aka Richard Marusak  
15 (hereinafter "Marusak"), a licensed dealer of gold and silver coins in Dearborn, Michigan. I also  
16 issued an Internal Revenue Summons to Marusak, and from my review of the summonsed  
17 records, and a subsequent telephone interview with Marusak I confirmed that an account was  
18 established at Bank of America for Rowen to deposit funds, and to purchase gold and silver  
19 coins. Marusak further stated that he has been conducting transactions with Rowen on a regular  
20 basis since 2006.

21      32. According to the testimony of Marusak and summonsed records produced by  
22 R.M. Trading, Rowen purchased gold and silver coins for himself, Su and Lotus in the sum of  
23 \$3,500,922, summarized below:

<b>Year</b>	<b>Rowen</b>	<b>Lotus</b>	<b>Su</b>
2013	\$ 112,818	\$ 82,110	\$ 0
2012	\$ 525,181	\$ 372,724	\$ 11,741
2011	\$ 465,309	\$ 307,323	\$ 3,597
2010	\$ 316,489	\$ 254,093	\$ 0
2009	\$ 214,154	\$ 164,409	\$ 0
2008	\$ 150,015	\$ 289,371	\$ 741
2007	\$ 53,597	\$ 169,273	\$ 7,977
<b>Total</b>	<b>\$ 1,837,563</b>	<b>\$ 1,639,303</b>	<b>\$ 24,056</b>

33. According to the testimony of Marusak and summonsed records produced by R.M. Trading, Rowen requested the purchased gold and silver coins be shipped by priority mail to the Office Building.

34. According to the testimony of Marusak, some of the coins were returned by Rowen, and Marusak issued Rowen refunds for these returned coins. Marusak estimated that these refunds totaled \$203,000 in 2013, \$229,000 in 2012, \$219,000 in 2011, and \$273,000 in 2010. Thus, of the original \$3,500,922 worth of coins purchased, approximately \$924,000 were returned to Marusak, leaving \$2,576,922 unaccounted for.

35. Although I have not been able to view the premises of the Office Building or the Residence, I believe, based upon my experience as an ATAT Revenue Officer, that Rowen and Su have stored the coins at the Office Building or at the Residence.

36. In order to eliminate other possible storage locations, I contacted 22 storage container locations in the Santa Rosa area. I was informed that neither Rowen nor Su currently have any storage container leases in the Santa Rosa area. I also inquired about safety deposit boxes at the banks that Rowen and Su use. No such boxes were found. In addition, the sheer quantity of coins at issue – estimated by Marusak to weigh between 100 to 125 pounds – is too large and heavy to be stored in a bank deposit box.

1       37. Consent to enter the Office Building or the Residence has not been requested.

2 Given the Taxpayers' propensity for hiding assets to avoid the Internal Revenue Service's  
3 collection efforts, if consent were requested there is a high likelihood that the coins and other  
4 monetary items would be moved before the seizure.

5       38. Therefore, it is necessary and essential to the execution of my duties as a Revenue  
6 Officer of the United States enforcing the internal revenue laws, that the Court authorize officers  
7 and agents of the Internal Revenue Service, and others under their direction as needed, to enter  
8 into and upon and to search within the Taxpayers' Office Building located at 2200 County  
9 Center Drive Santa Rosa, California 95403, and Residence located at 7048 E. Hurlbut Avenue,  
10 Sebastopol, California 95472, for the purpose of levying upon and seizing the assets described in  
11 this Declaration, and other similar or related assets or property, belonging to the Taxpayers found  
12 on the premises, and subject to levy, the value to be applied to the unpaid tax liabilities of the  
13 Taxpayers.

14       39. As a result of my investigation, I became aware that Rowen is usually at the  
15 Office Building location during Tuesdays and Thursday, and Su is there during most days. We  
16 intend to execute the Writ on either Tuesday or Thursday. We intend to execute simultaneous  
17 Writs on the Office Building and the Residence at the same time at approximately 8:00 a.m.  
18 Since all appointments at the Taxpayers' medical practice are made in advance, we do not  
19 believe that there are set business hours. However, by executing the Writ at 8:00 a.m., we hope  
20 to avoid inconvenience to any patients.

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed on March 13, 2014.

3   
4 David Barbearo  
5 Revenue Officer  
Internal Revenue Service

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